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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,626	02/04/2005	Daniel Paul Silcock	18767-002US1/P15222US	5859
26211	7590	05/18/2006		
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER HARTMANN, GARY S	
			ART UNIT	PAPER NUMBER
			3671	
DATE MAILED: 05/18/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/523,626

Applicant(s)

SILCOCK ET AL.

Examiner

Gary Hartmann

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/4/5 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/4/5</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Drawings***

The drawings are objected to because the copies provided are not clear and do not have lines that are uniformly thick and well defined. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3671

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-5, 10-15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Schultz (U.S. Patent 4,269,535).

Schultz discloses a compactor having a roller (16) secured to a chassis (Figures 2 and 3, for example) and a coupling (26, 30).

There are a pair of rollers (Figure 3), each with a plurality of cleats (18) there on and formed in rows.

The configuration of the coupling meets the limitations of claims 10-15 (see especially Figures 2, 2a, 2b and 3).

Because cylinder (48) is limited with respect to how far the piston assembly can extend, the recitation of "means to restrict the height" is met.

Claims 1, 4, 5, 10, 16 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Holmes (U.S. Patent 6,708,777).

Holmes discloses a compactor having a roller (10) secured to a chassis (28) and a coupling (Figure 5, for example).

The roller has cleats (12) formed in rows (Figure 3, for example).

The chassis is rotatable with respect to the coupling (about pin, not labeled, Figure 5).

There are scrapers (38) extending between each row of cleats (Figure 3, for example).

Art Unit: 3671

It is clear from Figure 5 that the chassis is not pivotable in a vertical direction. This solid configuration meets the recitation of a means to restrict height.

Claims 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Caron et al. (U.S. Patent 5,795,097).

Caron discloses a cleat having two halves (Figure 3, top half of the figure, bottom half of the figure) offset from each other along a roller circumference.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fromhart (Canadian Patent 2 339 895).

Fromhart discloses a cleat having a plurality of sections (2, 3) disposed in an offset relationship (Figure 4, for example). Three sections are shown, as is a cleat having only one section; however, it is well known to configure cleats as needed in order to suit a particular compacting application. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used two sections (i.e., halves) of Fromhart for this purpose.

Art Unit: 3671

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Schultz or Holmes as applied above, and further in view of Fromhart or Caron et al., as applied above.

Schultz and Holmes do not teach the cleat as claimed; however, it is standard practice to utilize different cleat configurations in order to best suit particular applications. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the cleat of Fromhart or Caron with either Schultz or Holmes in order to best suit a particular application.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes, as applied above.

Holmes only teaches scrapers to be disposed on one side of the apparatus; however, Holmes specifically teaches that other configurations may be utilized as desired. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have extended the scrapers from opposite sides in order to more thoroughly clean the cleats as needed in a particular application. Note that this is essentially a duplication of parts which does not patentably distinguish the apparatus in this instance.

The scrapers (38) have the appearance of spring steel, but the material is not specifically taught. As Holmes uses steel as the primary material of construction, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used spring steel in order to obtain an effective and durable scraper.

Art Unit: 3671

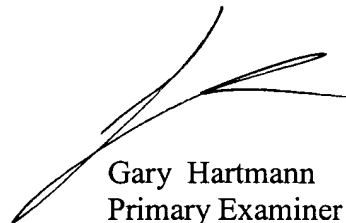
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Monday through Thursday, 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form the name 'Gary Hartmann'.

Gary Hartmann
Primary Examiner
Art Unit 3671